

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MISSOURI**

**SHELIA REDICK,**

**Plaintiff,**

**v.**

**CANYON CREEK APARTMENTS, LLC**

**Defendant.**

**Case No.** \_\_\_\_\_

**NOTICE OF REMOVAL**

PLEASE TAKE NOTICE that Defendant Canyon Creek Apartments, LLC (hereinafter “Canyon Creek” or “Defendant”) pursuant to 28 U.S.C. §§ 1331, 1332, 1441 and 1446, hereby removes the above-captioned action to this Court from the Circuit Court of Jackson County, Missouri. As grounds for removal, Defendant states:

1. On March 19, 2020, Plaintiff commenced a civil action in the Circuit Court of Jackson County, Missouri, styled: *Shelia Redick v. Canyon Creek Apartments, LLC*, Case No. 2016-CV09601. A copy of the petition filed in state court is attached hereto as **Exhibit A**. Copies of all other process, pleadings, and orders on file in the state court are attached hereto as **Exhibit B**.

2. Plaintiff’s Petition is brought pursuant to the Americans with Disabilities Act, 42 U.S.C. § 12101, *et seq.* (hereinafter the “ADA”) the Federal Fair Housing Act, 42 U.S.C. 3601, *et seq.* (hereinafter the “FHA”), as well as the Missouri Human Rights Act, Mo. Rev. Stat § 213.010, *et seq.* (hereinafter the “MHRA”).

3. Defendant was served with a copy of the Summons and Petition on June 10, 2020.

4. This matter is timely removed under 28 U.S.C. § 1446(b), which requires the removing party to file the notice of removal within thirty (30) days of service of the summons and petition.

5. 28 U.S.C. § 1441(a) provides for removal of “any civil action in a State court of which the district courts of the United States have original jurisdiction.” Pursuant to the federal question statute, 28 U.S.C. § 1331, federal district courts “shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” Federal jurisdiction exists in this case because Plaintiff’s Petition alleges claims under both the ADA and the FHA, which are both claims “arising under the...laws...of the United States.” This Court also has Supplemental Jurisdiction over Plaintiff’s remaining state law claims pursuant to 28 U.S.C. § 1367.

6. Additionally, pursuant to the federal diversity statute, 28 U.S.C. § 1332(a), the federal district courts “have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between . . . citizens of different States.” Here, both elements of federal diversity jurisdiction are satisfied.

7. Although Defendant denies all liability in this case, the claims alleged by Plaintiff put more than \$75,000.00 in controversy. Plaintiff seeks compensatory damages for emotional pain and suffering, mental anguish, as well as punitive damages. In fact, if Plaintiff prevails in any fashion on her MHRA, ADA or FHA claims, Plaintiff’s attorney’s fees alone could satisfy the diversity requirement. *See e.g. Walsh v. City of Kansas City, Missouri.*, 481 S.W.3d 97 (Mo. App. 2016) (awarding prevailing party’s attorney’s fees of \$346,500.00 where only \$524.00 of actual damages were awarded); *see also* 42 U.S.C. § 12205; 24 C.F.R. § 180.705. This is more than sufficient to satisfy the jurisdictional threshold of Section 1332(a).

8. The parties in this case are also completely diverse:
  - a. As alleged in the Petition, Plaintiff is a resident and citizen of the State of Missouri.
  - b. Defendant is a limited liability company and its citizenship for diversity purposes is determined by the citizenship of its members. *Little Otters of Love, LLC v. Rosenberg*, 724 Fed. App'x 498, 501 (8th Cir. 2018) (“For purposes of establishing diversity, a limited liability company’s citizenship is the citizenship of each of its members.” (citing *OnePoint Solutions, LLC v. Borchert*, 486 F.3d 342, 346 (8th Cir. 2007))). The sole member of Defendant is Robert Imhoff, who is a citizen of the State of California.
  - c. Because Plaintiff is a citizen of Missouri and Defendant is a citizen of California, complete diversity exists in this case.

9. In light of the foregoing, the Court has original jurisdiction over this case under Section 1331 and 1332(a) and the matter is removable under Sections 1441 and 1446. Removal to this Court is not prohibited under Section 1441(b)(2) because no Defendant is a citizen of the State of Missouri. The requirements of Section 1446 are satisfied because this Notice of Removal is timely filed, and all Defendants who have been served have joined in this removal.

10. In accordance with Section 1446(a), copies of the record and proceedings in the state court action—including all process, pleadings and orders—are attached to this Notice of Removal.

11. In accordance with Section 1446(d), Defendant will promptly serve written notice of removal to Plaintiff’s and Defendant’s attorneys of record in the state court action and file with the state court a copy of this Notice of Removal.

12. In accordance with Section 1441(a), Defendant has removed this case to the Western Division of this Court and designates Kansas City as the place of trial. Defendant requests a trial by jury on all issues so triable.

13. By this Notice of Removal, Defendant does not waive any affirmative defense that it may possess. Defendant does not concede that Plaintiff has stated any viable claim for relief against it, and Defendant denies any and all liability in this action.

WHEREFORE, Defendant Canyon Creek Apartments, LLC file this Notice of Removal and requests that the Court assume full jurisdiction over the claims asserted in this action under 28 U.S.C. §§ 1331, 1332, 1441 and 1446.

**Respectfully submitted,**

**THE PORTO LAW FIRM**

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**CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that the foregoing document was served this 7<sup>th</sup> day of July, 2020 via United States mail and electronic mail to the following counsel of record:

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